

FINAL

MARION CONSERVATION COMMISSION
MINUTES OF THE REGULAR MEETING HELD ON JANUARY 17, 2007

Members Present: Norman A. Hills, Chairman
Jeffrey W. Oakes, Vice Chairman
Sherman E. Briggs, Jr., Recording Secretary (left at 10:00 PM)
Bruce C. Hebbel, Member
Lawrence B. Dorman, Member

Members Absent: Horace S. Kenney, Jr., Associate Member
Joel D. Hartley, Associate Member

Secretary: Diane R. Drake

Others Present: William F. Madden, Chip Garnett, Susan Nilson, Christopher Bryant, Patrick O'Neale, Jon Gregory, Charles Paulsen, Peter Kirschmann, Michael Popitz, David Pierce, Wassim Chedid, Kenneth Ferreira, and possibly others in the audience that did not sign the attendance sheet.

Meeting convened at 7:00 PM Wednesday, January 17, 2007 in the main conference room of the Marion Town House, 2 Spring Street, Marion, Massachusetts. Site inspections were held on Saturday, January 13, 2007 by N. Hills, J. Oakes, B. Hebbel and L. Dorman.

7:00 PM **SARDINHA FAMILY TRUST** - NOI (SE41-1053) to replace the restaurant building at 450 Wareham Street with two new buildings (a restaurant building and an office/retail building) (continued from December 20, 2006). At their Engineer's request, L. Dorman moved to continue the hearing again to 7:00 PM February 21, 2007; B. Hebbel seconded; voted unanimously.

7:10 PM **COOLMAR LIMITED PARTNERSHIP** - Amendment (SE41-1049) to allow vista pruning at 604B Point Road (continued from December 20, 2006). William Madden of G.A.F. Engineering represented Coolmar. He had attended the January 13, 2007 site inspection with the Commission and said the Amendment is for vista pruning. Discussion followed regarding the definitions of vista pruning. J. Oakes said virtually anything 50 feet or further from a wetland can be done for vista pruning, but in this case he would like a 15' do-not-disturb zone to be maintained, and leave 90% of the canopy cover. J. Oakes said the bayberry in the area only get waist high, so there is no reason to remove them for vista pruning. Anything 5" or greater diameter is considered a tree and is included in the 90% canopy, and shrubs are between 3' and 20' high. Ground cover is non-woody material less than 3' in height as defined in D.E.P.'s Bordering Vegetated Wetlands Handbook. L. Dorman moved to close the hearing; J. Oakes seconded; voted unanimously.

7:27 PM **THE KITTANSETT CLUB** - NOI (D.E.P. file number not assigned yet) to modify existing parking areas at 11 Point Road and Butler's Point. J. Oakes and S. Briggs left the

room. Chip Garnett and Susan Nilson represented Kittansett. S. Nilson submitted a revised plan showing everything moved west into the parking lot. She said there is a grass swale for water quality. The runoff calculations were discussed. Due to the lack of a file number, L. Dorman moved to continue the hearing, with the Applicant's consent, to 7:40 PM February 7, 2007; B. Hebbel seconded; voted unanimously. J. Oakes and S. Briggs returned to the room.

7:40 PM **CHARLES PAULSEN** - RFD (41D-1303) to replace two rotted pilings at 2 West Drive with new pilings, and perform maintenance repairs/repainting of the seawall with no change in footprint. Charles Paulsen was present and said he would like to return the apron on the seawall to its prior condition, as well as the ramp. L. Dorman moved to close the hearing; B. Hebbel seconded; voted unanimously. J. Oakes moved to issue a Negative Determination for Box #2; L. Dorman seconded; voted unanimously.

7:43 PM **JOHN B. HARTWELL** - RFD (41D-1304) to reconstruct and expand the second-floor deck at 63 East Avenue, Planting Island. Mr. Hartwell's contractors were out of state and could not attend this hearing. The Building Commissioner had issued a building permit for this work, and the work was mostly done, by the time the Commission became aware of the project and visited the site. Although there is no change in footprint, the work is in the flood plain and in the Buffer Zone to a Coastal Bank. J. Oakes moved to close the hearing; L. Dorman seconded; voted unanimously. J. Oakes moved to issue a Negative Determination for Boxes 2 and 3; L. Dorman seconded; voted unanimously.

7:50 PM **THE MATTAPOISETT RIVER VALLEY WATER DISTRICT** - NOI (SE41-1051) to install 9,500 linear feet of 12"-I.D. water main from the Industrial Drive in Mattapoisett to Benson Brook Road in Marion (continued from January 3, 2007). Jon Gregory and Patrick O'Neale represented the District. J. Gregory described the work as shown on revised plans that had been submitted earlier. He said the Natural Heritage & Endangered Species Program prefers construction to take place between November 15th and March 20th, due to spotted and box turtles along the route. P. O'Neale submitted photographs of the railroad bed and culverts. He said there are four culverts in Marion, and the Mattapoisett Conservation Commission has signed off on the two culverts in Mattapoisett. He said three of the Marion culverts will be replaced, and the stone culvert at Station 74 will remain. He said washouts at Stations 65 and 67 have deposited silt in the wetlands, and the contractor will remove the silt buildups and restore the embankments. He said the water main leaves the railroad bed at Station 106 onto Sippican Lands Trust property. P. O'Neale said the path running through wetlands on the Lands Trust land will be relocated, and boulders will be placed to prevent people from using the old path. He said the water main will run under all the culverts except for the main culvert at Bordens Brook, which will be insulated, have a manhole with an air release valve, and a concrete cap over it. P. O'Neale said the railroad bed itself will be gravel, placed over one foot of fill between Stations 39 and 69, and two feet of fill between Stations 82 and 106. Chris Bryant, President of the Sippican Lands Trust, was present and said the property on each side of the railroad bed is also owned by the Lands Trust. C. Bryant said a gate will be required at each end of the Lands Trust land, and the fill cannot be dredged material. C. Bryant said the path over Lands Trust land will be grass, not gravel, to discourage any traffic over the paths except for maintenance vehicles. He said the discarded cable presently on the path will be cut into pieces rather than pulled out. P. O'Neale said test pits 500'-1000' apart in the path need to be done now in order to be included in the bid package. He said the machine will enter the bed from

Mattapoisett and the pits will be dug by Robert Zora and the Marion Department of Public Works crew. J. Oakes moved to close the hearing; L. Dorman seconded; voted unanimously.

8:40 PM **WASSIM M. CHEDID** - NOI (SE41-1059) to construct a single-family dwelling, a septic system, a driveway, install utilities, associated filling and grading, and wetlands replication. Mr. Chedid was present with his Engineer, Kenneth Ferreira, who submitted drainage calculations using the "Rational Method," and said there is only one transect for that area at Aucoot Cove. K. Ferreira said he came before the Commission a year or so ago to verify the delineations of the resource areas at that site, and the Commission issued a Determination of Applicability approving the delineations of the wetlands and flood zones as shown on his plan. K. Ferreira's presentation included a recent aerial map of the Indian Cove subdivision showing the drainage ditches. He then presented the current (February 1988) Flood Insurance Rate Map showing those same drainage ditches as they existed way back then in 1988. He presented a U.S.G.S. map showing the AE Zone at Holly Pond Road, and said that zone does not cross Holly Pond Road, like the altered map submitted by Dr. Popitz shows. K. Ferreira said he believes his V Zone delineation is accurate based on all the flood zone maps from all the different agencies he reviewed. K. Ferreira said the north side of the retention/replication area can be lined with stones from the excavation to further increase the runoff storage capacity by two feet. J. Oakes said he used the FEMA processes to plot the Velocity Zone delineation, and agreed that K. Ferreira's original line is very close to what he had calculated, which places the corners of the house barely in the Velocity Zone. K. Ferreira said the footprint of the house can be altered if necessary. He said the garage entrance is at 15' el. S. Briggs suggested placing an equalizer pipe under the driveway; K. Ferreira said "fill" is not allowed in a velocity zone, but such a pipe could be installed if required. S. Briggs suggested adding trap rock to the driveway below the gravel. Peter Kirschmann, the abutter on the driveway (west) side of the lot, said he is concerned with runoff not being allowed to flow as it does now and may cause ponding on his property. Dr. Michael Popitz, the abutter on the opposite (east) side of the lot, said he still has reservations and submitted another list of his concerns (velocity zone, driveway, roof runoff, site grading, retaining wall and replication). Dr. Popitz emphasized that he will appeal the Commission's decision to D.E.P. if this project is approved. K. Ferreira said the house, including the garage, will be at least 2,000 square feet. K. Ferreira said most of the items on Dr. Popitz's new list of concerns have already been answered on the plan. J. Oakes said he personally is not in favor of the project and does not see what additional information could be submitted. There being no further comment from the audience, L. Dorman moved to close the hearing; S. Briggs seconded; voted unanimously.

The Commission Members discussed possible conditions for the Order. S. Briggs said he feels better about K. Ferreira's velocity zone delineation since J. Oakes' calculations of it were virtually the same. N. Hills said he was impressed with K. Ferreira's thorough presentation of how he determined the velocity zone delineation. N. Hills said the project will need to be done in stages, with the driveway being done first. S. Briggs said the driveway should be staked on both sides and clearly marked for the contractor to use as the limit of work. N. Hills drafted the Order of Conditions. L. Dorman moved to issue the Order as written; B. Hebbel seconded; N. Hills and S. Briggs voted in favor; J. Oakes voted against. Motion passed.

COOLMAR LIMITED PARTNERSHIP - J. Oakes drafted Coolmar's Amended Order of Conditions for vista pruning at 604B Point Road and moved to issue it as written; L. Dorman seconded; voted unanimously (SE41-1049).

THE MATTAPOISETT RIVER VALLEY WATER DISTRICT - J. Oakes drafted an Order of Conditions for this water main project along the railroad bed and moved to issue it as written; L. Dorman seconded; voted unanimously (SE41-1051).

Meeting adjourned at 10:40 PM.

Approved January 18, 2007

Diane R. Drake, Secretary